

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 11-04428 AHM (OPx)

Date August 18, 2011

Title DEON THOMAS, v. BLEIER & COX LLP, et al.

Present: The
Honorable

A. HOWARD MATZ, U.S. DISTRICT JUDGE

Stephen Montes

Not Reported

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys **NOT** Present for Plaintiffs:Attorneys **NOT** Present for Defendants:**Proceedings: IN CHAMBERS (No Proceedings Held)**

Before this Court is Plaintiff's Motion for Default Judgment against Defendant Capital One Bank (USA) ("Capital One"), N.A. For the following reasons the Court **DENIES** the motion:¹

- Before moving for "default judgment," Plaintiff must obtain "entry of default" from the clerk in accordance with Federal Rule of Civil Procedure 55(a) and Local Rule 55-1. *See Vongrave v. Sprint PCS*, 312 F. Supp. 2d 1313, 1318 (S.D. Cal. 2004). Plaintiff has failed to do so.
- Although it was belated, Defendant Capital One filed an Answer to the First Amended Complaint on July 25, 2011. (Dkt. 22.) The Parties dispute the length of the delay. Plaintiff argues Defendant's deadline was July 6, while Defendant argues its deadline was July 21. Regardless, Plaintiff has not established any prejudice by virtue of Defendant Capital One's briefly belated Answer.

Accordingly, Plaintiff's Motion for Default Judgment is **DENIED**. The Scheduling Conference is set for October 3, 2011, at 1:30 pm. No hearing is necessary. Fed. R. Civ. P. 78; L.R. 7-15.

Initials of Preparer

SMO

¹ Dkt. 19.

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